

HOUSE BILL No. 1069

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-10.5-1; IC 12-10.5-2.

Synopsis: Home and community based services. Voids rules adopted by the division of disability, aging, and rehabilitative services (DDARS) concerning home and community based services (HCBS). Requires DDARS to adopt new rules implementing: (1) the caretaker support program; and (2) standards for continuum of care providers; not later than January 1, 2006. Requires DDARS to consult with certain interested parties to ensure that the new rules: (1) protect consumers of HCBS; (2) address the specific needs of distinct populations of consumers; (3) do not create barriers to HCBS by imposing certain costs and requirements on providers; and (4) comply with the requirements of the statutes establishing long term care services and the community and home options to institutional care for the elderly and disabled (CHOICE) program. Requires DDARS to submit its written response to any comments received during the rulemaking process to the publisher of the Indiana Register for publication. Requires DDARS to report to the administrative rules oversight committee on the status of the rules not later than September 1, 2005. (The introduced version of this bill was prepared by the administrative rules oversight committee.)

Effective: Upon passage.

Hinkle, Becker

January 6, 2005, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1069

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-10.5-1-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The division
3 of disability, aging, and rehabilitative services established by
4 IC 12-9-1-1 shall administer the caretaker support program established
5 under this chapter.

6 (b) The division of disability, aging, and rehabilitative services shall
7 do the following:

8 (1) **Subject to section 9 of this chapter**, adopt rules under
9 IC 4-22-2 for the coordination and administration of the caretaker
10 support program.

11 (2) Administer any money for the caretaker support program that
12 is appropriated by the general assembly.

13 SECTION 2. IC 12-10.5-1-9 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]: **Sec. 9. (a) Before finally adopting a rule under**
16 **IC 4-22-2 to implement this chapter, the division shall consult with**
17 **and fully consider any comments submitted by:**

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- (1) caretakers providing care for a special needs individual under this chapter;
- (2) individuals with special needs receiving care from a caretaker under this chapter;
- (3) area agencies on aging;
- (4) consumers and providers of home and community based services under IC 12-10-10 and IC 12-10-11.5; and
- (5) any other agency, volunteer group, faith based group, or individual that the division considers appropriate;

to ensure that the rule complies with the requirements set forth in subsection (b).

(b) Rules adopted under this chapter must:

(1) include protections for the rights, safety, and welfare of individuals with special needs receiving care from a caretaker under this chapter;

(2) serve distinct populations, including:

(A) the aged;

(B) persons with developmental disabilities; and

(C) persons with physical disabilities;

in a manner that recognizes, and appropriately responds to, the particular needs of the population;

(3) not create barriers to the availability of home and community based services under IC 12-10-10 and IC 12-10-11.5 by imposing costly or unduly burdensome requirements on caretakers or other service providers, including:

(A) requirements for proof of financial responsibility; and

(B) monitoring, enforcement, reporting, or other administrative requirements; and

(4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this chapter.

(c) Before submitting a rule adopted under this chapter to the attorney general for final approval under IC 4-22-2-31, the division shall submit to the publisher (as defined in IC 4-22-2-3(f)) for publication in the Indiana Register the division's written response under IC 4-22-2-23 to any comments received from the parties described in subsection (a).

SECTION 3. IC 12-10.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **Subject to section 3 of this chapter**, the division may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 4. IC 12-10.5-2-3 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Before finally adopting a rule under IC 4-22-2 to implement this chapter, the division shall consult with and fully consider any comments submitted by:

- (1) continuum of care providers providing care under this chapter;
- (2) individuals receiving care under this chapter;
- (3) area agencies on aging;
- (4) consumers and providers of home and community based services under IC 12-10-10 and IC 12-10-11.5; and
- (5) any other agency, volunteer group, faith based group, or individual that the division considers appropriate;

to ensure that the rule complies with the requirements set forth in subsection (b).

(b) Rules adopted under this chapter must:

- (1) include protections for the rights, safety, and welfare of individuals receiving care under this chapter;
- (2) serve distinct populations, including:
 - (A) the aged;
 - (B) persons with developmental disabilities; and
 - (C) persons with physical disabilities;

in a manner that recognizes, and appropriately responds to, the particular needs of the population;

- (3) not create barriers to the availability of home and community based services under IC 12-10-10 and IC 12-10-11.5 by imposing costly or unduly burdensome requirements on continuum of care providers or other service providers, including:

- (A) requirements for proof of financial responsibility; and
- (B) monitoring, enforcement, reporting, or other administrative requirements; and

- (4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this chapter.

(c) Before submitting a rule adopted under this chapter to the attorney general for final approval under IC 4-22-2-31, the division shall submit to the publisher (as defined in IC 4-22-2-3(f)) for publication in the Indiana Register the division's written response under IC 4-22-2-23 to any comments received from the parties described in subsection (a).

SECTION 5. [EFFECTIVE UPON PASSAGE] 460 IAC 1.1 is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this article from the Indiana Administrative

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1 **Code.**
2 SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this
3 SECTION, "committee" refers to the administrative rules
4 oversight committee established by IC 2-5-18-4.
5 (b) As used in this SECTION, "division" refers to the division
6 of disability, aging, and rehabilitative services established by
7 IC 12-9-1-1.
8 (c) The division shall adopt rules under IC 4-22-2 to implement
9 IC 12-10.5-1 and IC 12-10.5-2, both as amended by this act, not
10 later than January 1, 2006.
11 (d) Not later than September 1, 2005, the division shall report
12 to the committee on the division's progress in adopting the rules
13 described in subsection (c).
14 (e) This SECTION expires January 1, 2007.
15 SECTION 7. An emergency is declared for this act.

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